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Election Day Procedures – 2013

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THINGS WE INTEND TO COVER

1. Qualifying voters and provisional voting after SB 14.
2. Election judges and clerks: how many, qualifications, ineligibility, and duties.
3. Polling place hours.



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4. People in the polling place
5. Voter Assistance
6. Interpreters
7. Electioneering
8. Miscellaneous polling place procedures

Statutory references are to the Texas Election Code.



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After Implementation of Senate Bill 14, 82nd Legislature, 2011 (“SB 14”)

- Qualifying voters at the polling place
- Provisional voting



Forms of Identification

§§ 63.001(b), (g), (h), 63.0101

On offering to vote, voter must present one of the following 7 forms of identification described in Section 63.0101:

1. Texas driver's license issued by Texas Department of Public Safety ("DPS");*
2. Texas election identification certificate ("EIC") issued by DPS;*
3. Texas personal identification card issued by DPS;*
4. Texas concealed handgun license issued by DPS;*



Forms of Identification (con't)

5. United States military identification card ("military ID card") that contains the person's photograph;*
6. United States citizenship certificate ("citizenship certificate") that contains the person's photograph; OR
7. United States passport.*

*Indicates that document must not have not expired or expired no earlier than 60 days before the date of presentation of document by voter.



Forms of Identification (con't)

No other form of identification (other than one of the 7 Section 63.0101 documents described above), including a voter's registration certificate, will enable voter to receive a regular ballot. If one of the 7 forms of identification is not presented, voter will only be able to vote a provisional ballot.



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Exception to 7 Forms of Section 63.0101 ID §§ 13.002(i), 63.001(h)

If voter has notation of an "(E)" on his or her voter registration certificate after the VUID number, not necessary for voter to have one of 7 forms of ID listed under Section 63.0101. Notation means voter is exempt from ID requirement under Section 63.0101 because voter is disabled.

To obtain exemption, at time applicant submits a voter registration application (or at a later date if voter submits information at a later date), voter submits (a) written documentation from the United States Social Security Administration evidencing he or she has been determined to have a disability or from the United States Department of Veterans Affairs evidencing he or she has a disability rating of at least 50%, and (b) a statement in a form prescribed by the Secretary of State that he or she does not have a form of identification acceptable under Section 63.0101.



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After Presentation of ID Documentation §§ 15.112, 63.001(c), 63.006, 63.0011

An election officer must determine whether the voter's name on the documentation is on the list of registered voters for the precinct.



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Comparing ID Document Name to that on List of Registered Voters

If voter's name on voter's ID is identical to that on the list of registered voters, voter is accepted for voting.

If voter's name on voter's ID is not identical to that on the list of registered voters, then the election worker must determine if voter's name is "substantially similar" to that on the list of registered voters before voter is accepted for voting.



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“Substantially Similar”

§ 63.001(c); 1 T.A.C. § 81.71

In determining whether voter’s name on voter’s ID and on list of registered voters are “substantially similar,” election worker should consider whether information on the presented ID document matches elements of voter's information on official list of registered voters, such as voter's residence address or date of birth, which may be strong indicators that the name on the presented ID document is substantially similar to the name on the official list of registered voters and vice versa.



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“Substantially Similar” (con’t)

Administrative rule 81.71 provides the following examples of “substantially similar” names:

1. Name on presented ID is slightly different from one or more of the name fields on the official list of registered voters;
2. Name on presented ID or on the official list of registered voters is customary variation of the formal name, such as, for illustrative purposes only, Bill for William, or Beto for Alberto;



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“Substantially Similar” (con’t)

3. Voter's name on the presented ID document contains an initial, a middle name, or a former name that is not on the official list of registered; or
4. A first name, middle name, former name, or initial of the voter's name that occupies a different field on the presented ID document than a first name, middle name, former name, or initial of the voter's name on the official list of registered voters.



“Substantially Similar” (con’t)

If the reviewing election worker makes a determination that voter's name on ID document and official list of registered voters are substantially similar, voter shall be accepted for voting if voter signs similar name affidavit.

- The similar name affidavit is part of the combination form, and voter submits the affidavit by initialing the appropriate box on the combination form.



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Voter Not On List § 63.006

Voter accepted for voting under Section 63.006, even though name not on list of registered voters, and election worker puts voter's name on registration omissions list, if:

1. Voter has one of 7 forms of ID required under Section 63.0101; and



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Voter Not On List (con't)

2(a). Voter has voter registration certificate showing that voter is currently registered in the precinct in which the voter is offering to vote,

OR

2(b). Voter has voter registration certificate showing he/she is currently registered in a different precinct in the same county as the precinct in which he/she is offering to vote and he/she executes an affidavit (contained on the combination form) stating:



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Voter Not On List (con't)

- he/she is a resident of the precinct in which he/she is offering to vote or is otherwise entitled by law to vote in that precinct,
- he/she was a resident of the precinct in which he/she is offering to vote at the time the information on voter's residence address was last provided to voter registrar,
- he/she did not deliberately provide false information to secure registration in a precinct in which he/she does not reside, **and**
- he/she is voting only once in the election.



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Suspense Voters & Voters Who Have Moved §§ 15.112, 63.0011

Before voter who is otherwise qualified to vote will be accepted for voting, he/she must complete a statement of residence ("SOR") if:

1. There is an "S" notation next to voter's name on the list of registered voters and voter still resides in the county where registered.
2. If voter responds in the negative to the question, "Is the residence address in the list of registered voters still your correct address," but still resides in the county of registration.



Contacting Voter Registrar

In the past, our office has said election judges and clerks should contact voter registrar in two instances:

1. When a voter comes into the polling place and his/her name is not on the list of registered voters for the precinct, while insisting that he or she is a registered voter and has voted before, usually for the purpose of directing voter to correct precinct; and



Contacting Voter Registrar (con't)

2. Under former Section 63.009(b), repealed by SB 14, if a voter did not have a voter registration certificate in his/her possession and was not on the list of registered voters for the precinct in which voter was seeking to vote, voter would be allowed to vote a regular ballot **IF:**



Contacting Voter Registrar (con't)

- Voter presents proof of identification, and
- The election judge or clerk can determine from the voter registrar that voter is a registered voter of the county.

With the implementation of SB 14, our office does not believe there is any prohibition in election judges and clerks contacting voter registrar in order to steer voters to their correct precinct.

However, you may no longer contact voter registrar to confirm voter is registered voter for the purpose of allowing voter to vote a regular ballot under now repealed Section 63.009(b).



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Summary: Eligibility to Vote Regular Ballot After SB 14

1. Voter must have one of 7 forms of ID required under Section 63.0101, or have “(E)” notation on voter registration certificate after VUID number.

PLUS



Summary (con't)

2(a). Voter must be on list of registered voters for the precinct in which voter seeks to vote, and voter's name on ID document must be identical or "substantially similar" to name on list.

OR



Summary (con't)

2(b). Voter must have a current voter registration certificate satisfying Section 63.006.

PLUS



Summary (con't)

3. Voter must complete SOR, if required under Section 15.112 or 63.0011.

1 + 2(a) + 3 OR

1 + 2(b) + 3

= Voter qualifies to vote regular ballot



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Provisional Voting

**§§ 63.001(g), 63.009, 63.011, 65.052, 65.054, 65.0541;
1 Tex. Admin. Code § § 81.172(b) - 81.174(b)**

What Happens if.....

1. Voter does not have one of 7 forms of ID required by Section 63.0101.
2. Voter has no voter registration certificate and is not on the list of registered voters under Section 63.009.
3. Voter's name on ID documentation is not substantially similar to that on the list of registered voters.
4. An annotation next to the voter's name indicates that the voter voted early, either by mail or in person.
5. Voter has moved outside county of registration.



Provisional Voting (con't)

A voter described by #1-#5 is only entitled to vote a provisional ballot at the polling place.

Note: Voter under #5 may be able to vote a limited ballot during early voting in person in his/her new county.



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Provisional Voting Procedures

What to do?

- Election judge/clerk has voter complete the Provisional Voter Affidavit envelope prior to voting provisionally.
- Election judge/clerk enters voter's name on List of Provisional Voters and checks "provisional" on the combination form after entering voter's name there.
- Provisional voter signs the combination form.
SB 14: Presiding judge checks box to indicate whether voter has presented an acceptable form of ID or meets the disability exception.



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Provisional Voting Procedures (con't)

What to do (con't)?

- Presiding judge checks reason for voting provisionally, signs and dates the affidavit envelope.
- Voter chooses a provisional ballot.
- Voter puts ballot into secrecy envelope, seals secrecy envelope, places secrecy envelope in affidavit envelope, and deposits envelope (unless using DRE).
- Election judge/clerk gives voter Notice to Provisional Voter.



Provisional Voting Procedures (con't)

What to do (con't)?

Notice to Provisional Voter must include:

- A list of the 7 forms of required ID under Section 63.0101;
- the procedure for presenting identification to voter registrar after the election;
- a map of the location at which to present identification, and
- A statement that if all procedures are followed and voter is found to be eligible, voter's provisional ballot will be accepted.



Provisional Voting Procedures (con't)

What to tell the voter?

- Do not tell provisional voter that his/her ballot won't count.

- Unless:

Provisional voter presents no proof of identification and does not have a disability exemption, either at the polling place or at voter registrar's office during the "cure period."



Provisional Voting Procedures (con't)

The provisions of SB 14 provide for a “cure period,” when a voter votes provisionally because he/she does not have a form of ID prescribed by Section 63.0101. The “cure period” does not affect provisional voting at the polling place, except to the extent that a voter must be given the notice form prescribed by Secretary of State.



Provisional Voting Procedures (con't)

The “cure period” allows a voter who voted provisionally because he/she did not meet the identification requirements, not later than the 6th day (extended if falls on weekend or legal holiday) after the election date:



Provisional Voting Procedures (con't)

- To present to voter registrar:
 - (1) one of 7 forms of identification described by Section 63.0101 for examination;
 - (2) documentation to support a disability exemption;

OR

- To execute in the presence of voter registrar an affidavit stating:



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- voter has a religious objection to being photographed; or
- voter does not have any identification meeting the requirements of Section 63.001(b) as a result of a natural disaster that occurred not earlier than 45 days before the date the ballot was cast.



Provisional Voting Procedures (con't)

What happens after the election?

- General custodian of election records prepares a summary of provisional ballots and delivers to voter registrar (unless voter registrar makes arrangements and posts notice if will take custody of provisional ballot affidavits on election night).



Provisional Voting Procedures (con't)

- Voter registrar has 6 calendar days (extended if falls on weekend or legal holiday) after election day to copy and review all provisional ballot affidavits.
- **NEW LAW (HB 985):** For an election held on the date of the general election for state and county officers, voter registrar will have 7 calendar days to review the provisional voter's registration history.
- Pollwatchers are NOT entitled to be present during the review.



Provisional Voting Procedures (con't)

- Voter registrar returns provisional ballot affidavits by precinct in a secured, locked container to the presiding judge of Early Voting Ballot Board or general custodian of election records.
- Early Voting Ballot Board must convene no later than 7th day (date **not** extended if falls on weekend or legal holiday) after election day to decide provisional votes.



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Election Judges and Clerks

§§ 32.001. 32.002, 32.005, 32,006, 32.031, 32.032, 32.033

This presentation does **not** focus on the appointment of election judges and clerks, but on their qualifications and duties.

To summarize such appointments:



Election Judges and Clerks (con't)

1. Election judges and clerks for elections that are ordered by Governor or county commissioners court are appointed as provided in our advisory,
<http://www.sos.state.tx.us/elections/laws/advisory2013-06.shtml>.



Election Judges and Clerks (con't)

2. Election judges for elections that are ordered by the governing bodies of political subdivisions, other than counties, are appointed by those governing bodies.
3. Election judges for the primary election are appointed by county chair with approval of county executive committee, except in a joint primary, when election judges and clerks are appointed by county election officer from lists provided by chairs in accordance with Section 172.126.

